IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

CHAMBER SUMMONS NO.230 OF 2007

IN

SUIT NO.288 OF 1997

Laltaprasad R.Tiwari .. Plaintiff.
Versus
Rajabali R.Tiwari .. Defendant.
And
Jardaprasad R.Tiwari .. Respondent.

Mr.J.B.Singh for plaintiff.
Mr.Vipul Jain i/b.J.A.Bagaria for defendant.

CORAM : S.C.DHARMADHIKARI, J.
DATE : 6th AUGUST, 2007.

P.C.:

1. Heard Mr.Singh, appearing for the plaintiff and Mr.Bagaria, appearing for the defendant.

2. On the last occasion, Mr.Bagaria pointed out that the sole plaintiff has expired and no steps were taken to prosecute the suit hence it has abated.

3. Mr.Singh, appearing for the plaintiff invites my attention to the Chamber Summons No.230 of 2007, copy of which has already been served upon the respondent and an affidavit proving service would be filed within a period of two weeks from today.

4. Perused the Chamber Summons and the affidavit so also the affidavit-in-reply. All that has been pointed out in the affidavit is that the sole defendant has expired on 21st September, 2006 and the Chamber Summons has been taken out after a delay. Mr.Singh would state that there is only 21 days delay, whereas Mr.Bagaria does not accept this.

5. In my view, applying the liberal principles to the decision of such applications, and taking an overall view of the matter, the Chamber Summons deserves to be granted. It is accordingly made absolute in terms of prayer clauses (a) and (b). Amendment to be carried out within a period of 2 weeks from today. Upon amended copy of the plaint being served on the respondent, he shall file his written statement within a period of 4 weeks from the date of receipt of the copy of the amended plaint.

. In the peculiar facts of this case, no order of costs is made.

(S.C.Dharmadhikari, J.)